

CHAPTER FIVE

CONCLUSION AND RECOMMENDATION

A. Conclusion

Based on the previous discussion, researcher comes to conclusion as follows:

1. Legal protection for doctors is very important because of several reasons, such as: the medical malpractice accusations are extremely stressful, there are different perceptions of what malpractice is, and the application of health law and medical dispute resolution cannot be implemented properly. Those things become reasons of the doctors' worries and restlessness in Indonesia. Due to different perceptions of malpractice and wrong application of the law so that many cases of suspected malpractice should be subject to criminal penalties (such as case of dr. Ayu and dr. Setyaningrum) eventhough nullified by the Supreme Court.
2. The MPA 2004 provides legal protection in some forms. The first is explicitly that is in section 50 (a) that states "Obtaining legal protection throughout carrying out duties in accordance with professional standards and standard operating procedures"¹ and the second is implicitly that is the doctors have to conduct some actions

¹Sectin 50 of the MPA 2004 (*Undang-Undang No.29 Tahun 2004 tentang Praktik Kedokteran, pasal. 50*)

which can protect and liberate doctors from lawsuits such as: the therapeutic agreement (section 39), the informed consent (section 45) and the medical records (section 46). These sections also provide legal protection for doctors despite in an indirect way.

However, if a violation of ethics, discipline, negligence, unlawful, and crime has occurred, then, MKDKI as an autonomous institution is mandated by the MPA 2004 to receive complaints, examine, decide and impose sanctions to defendant before continuing to a criminal or civil court if the case violates the Penal Code and the Civil Code.

B. Recommendation

The MPA 2004 is not yet comprehensive and arises several problems, some recommendation can be proposed as follows:

1. It needs a section that describes the forms and definition of medical malpractice because the Medical Practice Act must define all the terminology related to medical practice.
2. It needs a section that describes in detail the forms of legal protection to doctors.
3. Decentralization of MKDKI that at present only centered in the capital of the Republic of Indonesia. With the establishment of a minimum MKDKI in five major cities in Indonesia, the role MKDKI can be optimized.

4. Enabling related institutions to further optimizing the legal protection and law enforcement, such as KKI, MKDKI, IDI and other related factors.